



# LEGISLATIVE UPDATES 2014

# LB 464- LB 561 “Clean-Up”

- Expanded Original Jurisdiction for Juvenile Courts
- LB 561 Clean-Up Provisions
  - IV-E
  - Payment of Services
  - YRTC
  - Community-Based Aid
- Truancy Provisions
- Data Collection and Facilitated Group Conferencing

# LB 464- Jurisdiction

- All cases involving youth under the age of 14, excluding traffic offenses, must be filed and heard in juvenile court.
- Misdemeanors- All cases involving youth under 18, must be filed in juvenile court. The prosecutor can file a motion to transfer cases involving 16 & 17 year olds to adult court.
- Felonies- All Class IIIA & IV felonies involving youth under 18 must be filed in juvenile court. The prosecutor can file a motion to transfer the case to adult court.
  - The prosecutor retains discretion on where to file all other felonies.

# LB 464- “Clean Up”

- Add necessary “IV-E” language to allow for NDHHS to contract with probation to draw down federal Title IV-E funds in juvenile justice cases.
- Community-Based Aid- Appropriates \$5 million dollars to the Community-based Juvenile Services Aid Program
  - Priority in funding for diversion, reduction in detention, re-entry services
  - Counties may use the funds for pre-existing programs which are aligned with evidence-based practices

# LB 464- “Clean-Up”

- Payment of services
  - County- pre-adjudication detention, detention alternatives, treatment, voluntary services and transportation, except for juveniles who are already on juvenile probation under another docket
  - Probation- pre-adjudication evaluations and pre-adjudication placements that are not detention. Post adjudication costs of detention, services, detention alternatives, voluntary services and transportation
  - OJS- all costs from the time a juvenile is committed to a YRTC until such time as the juvenile is discharged by OJS. This includes detention costs prior to placement and transportation to and from the YRTCs.

# LB 464- “Clean-Up”

- Probation is required to give copies of evaluations and pre-disposition reports to all legal parties. 43-281 is amended to allow for post-adjudication evaluations to be returned within 30 days, instead of 21 days, unless the juvenile is detained.
- Prior to commitment at a YRTC, the prosecutor must file a Motion for Commitment and satisfy all evidentiary requirements by a preponderance of the evidence.
- Changes to the YRTC Re-entry Process and Notice Requirements

# LB 464- Truancy Provisions

- Schools are not required to refer cases to the county attorney after a youth misses 20 days of school;
- Referral to county attorney can only be made after school efforts to address the “barriers to attendance.”
- Failure by the schools to document their efforts is a defense in both truancy and educational neglect cases
- Creates the Council on Student Attendance

# LB 464- Data & FGC

- The state court administrator is required to submit an annual report to the Legislature and Governor that includes geographic and demographic information regarding youth involved in the adult and juvenile court systems.
- In both 3(a) or juvenile justice cases, the court may provide the parties with the opportunity for facilitated conferencing or mediation. Funding and management for such services will be part of the Administrative Office of the Court.



# LB 908 - Guardianship

- Juvenile guardianship if:
  - a. 3a case
  - b. 6+ months in placement
  - c. Child over 10 consents
  - d. Guardian is suitable, able to provide safe and permanent home, has made commitment to child

# LB 908 - Guardianship

- Juvenile court:
  1. Grant same rights and duties as biological/adoptive parent would have
  2. May specify frequency and nature of family time with parents
  3. May specify frequency and nature of family time with siblings
  4. Must require guardian not return child to parents without prior approval of the court

# LB 908 - Guardianship

- Juvenile court “shall retain jurisdiction over the child for modification or termination of the guardianship order” but “shall discontinue permanency reviews and case reviews” and shall relieve DHHS of supervising placement

# LB 908 - Other provisions

- Codifies caselaw on abandonment (“abandonment means a parent’s intentionally withholding from a child, without just cause or excuse, the parent’s presence, care, love, protection, and maintenance and the opportunity for the display of parental affection for the child”)

# LB 908 - Other provisions

- Provides statutory authority to allow subsidies for guardianships to 21 pursuant to Bridge to Independence
- Changes language from DHHS guardianship to DHHS legal custody and care
- Confirms child continues to have right to inherit, parents may still be responsible for support and parents can consent to adoption

# Other Legislation

- LB 503 - Alternative Response (amended onto LB 853)  
Provides statutory authority for DHHS to do AR pilots
- LB 660 - Extends privatization in Omaha metro area
- LB 853 - Bridge to Independence Clean-up
- LB 974 - Provide duties for certain divisions of NDHHS relating to budgeting and strategic planning
- LB 1093 - Transfers funding for Facilitation and mediation in juvenile cases from DHHS to the AOC (amended into LB 464)